



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SCD BACK AND JOINT CLINIC LTD
200 E 24TH STREET SUITE B
BRYAN TX 77803

Respondent Name

STATE OFFICE OF RISK MANAGEMENT

Carrier's Austin Representative Box

Box Number 45

MFDR Tracking Number

M4-05-8078-01

MFDR Date Received

MAY 10, 2005

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "It is our position that these services were reasonable, necessary, and related to the compensable injury. Appeals and follow up with the carrier have failed to resolve the dispute."

Amount in Dispute per Updated Table of Disputed Services: \$1,185.70

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Office has no record of a request for reconsideration on file for the charges in dispute."

Response Submitted by: State Office of Risk Management

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 14, 2004	HCPCS Code L4350 Ankle control orthosis, stirrup style, rigid, includes any type interface (e.g., pneumatic, gel), prefabricated, off-the-shelf	\$25.62	\$25.62
May 20, 2004 June 8, 2004	HCPCS Code A4595 Electrical stimulator supplies, 2 lead, per month, (e.g., TENS, NMES)	\$36.01/each	\$0.00
May 19, 2004 May 20, 2004 May 21, 2004 May 25, 2012 May 28, 2004 June 1, 2004 June 14, 2004	CPT Code 99212-25 Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A problem focused history; A problem focused examination; Straightforward medical decision making. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's	\$41.91/per day	\$293.37

	and/or family's needs. Usually, the presenting problem(s) are self limited or minor. Typically, 10 minutes are spent face-to-face with the patient and/or family		
May 24, 2004 June 2, 2004 June 8, 2004 June 15, 2004 June 16, 2004	CPT Code 99211-25 Office or other outpatient visit for the evaluation and management of an established patient, that may not require the presence of a physician or other qualified health care professional. Usually, the presenting problem(s) are minimal. Typically, 5 minutes are spent performing or supervising these services.	\$23.35/per day	\$116.75
May 20, 2004 May 21, 2004 May 24, 2004 May 25, 2012 May 28, 2004 June 1, 2004 June 2, 2004 June 8, 2004 June 9, 2004 June 10, 2004	CPT Code 97012 Application of a modality to 1 or more areas; traction, mechanical	\$17.20/per day	\$172.00
May 20, 2004 May 21, 2004 May 24, 2004 May 25, 2012 May 28, 2004 June 1, 2004 June 8, 2004 June 10, 2004	CPT Code 97024 Application of a modality to 1 or more areas; diathermy (eg, microwave)	\$5.53/per day	\$44.24
May 20, 2004 May 21, 2004 May 24, 2004 May 28, 2004 June 1, 2004 June 2, 2004 June 8, 2004 June 9, 2004 June 14, 2004 June 15, 2004 June 16, 2004	CPT Code 98943 Chiropractic manipulative treatment (CMT); extraspinal, 1 or more regions	\$27.97/per day	\$0.00
July 5, 2004	CPT Code 99213-25 Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Typically, 15 minutes are spent face-to-face with the patient and/or family.	\$14.83	\$14.83
May 20, 2004	CPT Code 99070 Supplies and materials (except spectacles), provided by the physician or other qualified health care professional over and above those usually included with the office visit or other services rendered (list drugs, trays, supplies, or materials provided)	\$25.00	\$0.00

August 16, 2004	CPT Code 95851 (X2) Range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine)	\$30.60/each	\$0.00
August 18, 2004	CPT Code 99361 Medical Conference	\$53.00	\$0.00
TOTAL		\$1,185.70	\$666.81

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Former 28 Texas Administrative Code §133.305 and §133.307 sets out the procedures for resolving a medical necessity and fee dispute.
2. Former 28 Texas Administrative Code §134.202, effective August 1, 2003, sets the reimbursement guidelines for the disputed services.
3. Former 28 Texas Administrative Code §133.301, effective July 15, 2000, provides for retrospective review of medical bills.
4. Former 28 Texas Administrative Code §134.1, effective May 16, 2002, provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
5. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- M1- TWCC Code: M-No MAR. Reduced to fair and reasonable. No schedule allowance in the Medical Fee Guidelines; Fair and Reasonable rate has been recommended.
- G-90-TWCC Code: G-Unbundling (Included in global). The value of this service is included in the value of another service billed on the same date.
- N5- TWCC Code: N-Not appropriate documented. Medical necessity for the service(s) has not been established; please forward substantiating documentation to the carrier.
- N75- TWCC Code: N-Not appropriate documented. Documentation as submitted does not support the therapy modalities/procedures as billed.
- F85- TWCC Code: F-Fee guideline MAR reduction. Due to duplication of services, when the codes 97140, 98925-98929, 98940-98943 are billed on the same day, separate payment will not be allowed.
- F-Fee guideline MAR reduction.
- R38-Included in another billed procedure.
- R79-CCI; Standards of Medical/Surgical practice.
-

Issues

1. Is the requestor due additional reimbursement for HCPCS code L4350?
2. Does the documentation support billing of HCPCS code A4595?
3. Is the value of CPT codes 99211-25, and 99212-25, included in the value of another procedure performed on the disputed date?
4. Is the requestor due additional reimbursement for CPT code 99213-25?
5. Does the submitted documentation support billing of CPT code 97012 and 97024?
6. Is the requestor entitled to reimbursement for CPT code 98943? Does the documentation support amount sought complies with 28 Texas Administrative Code §134.1?
7. Is the requestor due reimbursement for CPT code 95851?
8. Is the value of CPT code 99361 included in the value of another service billed on the disputed date?

Findings

1. According to the explanation of benefits, the requestor billed \$86.49 for HCPCS code L4350. The respondent paid \$60.87 based upon reason code "M1." The requestor is seeking an additional reimbursement of \$25.62.

28 Texas Administrative Code §134.202(c) states “To determine the maximum allowable reimbursements (MARs) for professional services system participants shall apply the Medicare payment policies with the following minimal modifications: (2) for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L: (A) 125% of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule;

According to the DMEPOS fee schedule, HCPCS code has a fee schedule of \$69.19. Therefore, the respondent’s reduction of payment based upon “M1” is not supported.

In accordance with 28 Texas Administrative Code §134.202(c)(2), $\$69.19 \times 125\% = \86.49 . The difference between amount due and paid is \$25.62; this amount is recommended for additional reimbursement.

2. The respondent denied reimbursement for HCPCS code A4595 and CPT code 99070 based upon reason code “N5.”

HCPCS code A4595 is defined as “Electrical stimulator supplies, 2 lead, per month, (e.g., TENS, NMES).”

According to the updated table of Disputed Services, CPT code 99070, was billed for “Consumable TENS Supplies DME #5 or DME #6.” A review of the submitted progress notes finds that the documentation does not support that claimant received an electrical stimulator (e.g., TENS or NMES) to support the need for HCPCS code 4595 or CPT code 99070.

28 Texas Administrative Code §133.305 (a)(4) states “Retrospective Necessity Disputes--Retrospective Necessity Disputes involve a review of the medical necessity of health care provided. The dispute is reviewed by an independent review organization pursuant to commission rules, including §133.308 of this title. The following types of disputes may be Retrospective Necessity Disputes: (A) a health care provider dispute of a carrier denial of a medical bill based on lack of medical necessity.”

28 Texas Administrative Code §133.307(a) states in part “In resolving disputes over the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the commission is to adjudicate the payment, given the relevant statutory provisions and commission rules. Medical necessity is not an issue in a medical fee dispute.”

Therefore, medical fee dispute resolution lacks jurisdiction to review HCPCS code A4595 and CPT code 99070. As a result, reimbursement cannot be recommended.

3. The explanation of benefits indicate that the respondent denied reimbursement for the office visits, coded 99211-25, and 99212-25, based upon reason code “G90.”

28 Texas Administrative Code §134.202(b) states “For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers’ Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section.”

According to the National Correct Coding Initiatives (NCCI) edits, the office visits coded 99211-25 and 99212-25, are not global to any other procedure performed on the disputed dates; therefore, the respondent’s denial based upon “G90” is not supported. Reimbursement is recommended per the Division’s fee guideline.

28 Texas Administrative Code §134.202(c)(1) states “To determine the maximum allowable reimbursements (MARs) for professional services system participants shall apply the Medicare payment policies with the following minimal modifications: “for service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Surgery, Radiology, and Pathology the conversion factor to be used for determining reimbursement in the Texas workers’ compensation system is the effective conversion factor adopted by CMS multiplied by 125%.”

According to the submitted medical bills, the services were performed in Bryan, Texas; therefore, the Medicare carrier locality is “Rest of Texas.”

28 Texas Administrative Code §134.202(d) states “In all cases, reimbursement shall be the least of the:
 (1) MAR amount as established by this rule; (2) health care provider's usual and customary charge.”

CPT CODE	MEDICARE ALLOWABLE	MEDICARE ALLOWABLE x 125%	TOTAL NUMBER OF VISITS	TOTAL MAR	TOTAL PAID	AMOUNT DUE
99211	\$19.55	\$24.43 / Requestor is seeking \$23.35	5	\$116.75	\$0.00	\$116.75
99212	\$35.33	\$44.16 / Requestor is seeking \$41.91	7	\$293.37	\$0.00	\$293.37

4. According to the submitted documentation, the Division finds the following relevant information regarding CPT code 99213-25. On the medical bill the requestor listed CPT code 99213-25. The respondent lists and reimbursed the provider for CPT code 99212-25 based upon reason code “F1.”

28 Texas Administrative Code §133.301(b) states “Neither the insurance carrier nor the carrier's agent shall change a billing code on a medical bill or reimburse treatment(s) and/or service(s) at another billing code's value unless the insurance carrier contacts the sender of the bill and the sender agrees to the change.

The documentation does not support that the respondent contacted the requestor and agreed to the change in reimbursement; therefore, reimbursement per Division fee guideline is recommended.

28 Texas Administrative Code §134.202(d) states “In all cases, reimbursement shall be the least of the:
 (1) MAR amount as established by this rule; (2) health care provider's usual and customary charge.”

CPT CODE	MEDICARE ALLOWABLE	MEDICARE ALLOWABLE x 125%	TOTAL NUMBER OF VISITS	TOTAL MAR	TOTAL PAID	AMOUNT DUE
99213	\$49.58	\$61.97 / Requestor is seeking \$58.99	1	\$58.99	\$44.16	\$14.83

5. The respondent denied reimbursement for the physical therapy services, CPT code 97012 and 97024 based upon reason code “N75.” A review of the submitted progress notes supports billed service; therefore, the respondent's denial based upon “N75” is not supported. Reimbursement per 28 Texas Administrative Code §134.202(c)(1) is recommended.

28 Texas Administrative Code §134.202(d) states “In all cases, reimbursement shall be the least of the:
 (1) MAR amount as established by this rule; (2) health care provider's usual and customary charge.”

CPT CODE	MEDICARE ALLOWABLE	MEDICARE ALLOWABLE x 125%	TOTAL NUMBER OF VISITS	TOTAL MAR	TOTAL PAID	AMOUNT DUE
97012	\$14.33	\$17.91 / Requestor is seeking \$17.20	10	\$172.00	\$0.00	\$172.00
97024	\$5.59	\$6.99 / Requestor is seeking \$5.53	8	\$44.24	\$0.00	\$44.24

6. The respondent denied reimbursement for chiropractic manipulation, CPT code 98943, based upon reason code "F85."

28 Texas Administrative Code §134.202 (a)(3) states "Notwithstanding Centers for Medicare and Medicaid Services (CMS) payment policies, chiropractors may be reimbursed for services provided within the scope of their practice act."

A review of the submitted documentation does not support the denial of payment based upon "F85" because the value of code 98943 is not included in the value of another code billed on the disputed date. Per 28 Texas Administrative Code §134.202 (a)(3), chiropractors may be reimbursed for chiropractic manipulations.

28 Texas Administrative Code §134.202(c) states "To determine the maximum allowable reimbursements (MARs) for professional services system participants shall apply the Medicare payment policies with the following minimal modifications: (1) for service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Surgery, Radiology, and Pathology the conversion factor to be used for determining reimbursement in the Texas workers' compensation system is the effective conversion factor adopted by CMS multiplied by 125%. For Anesthesiology services, the same conversion factor shall be used."

28 Texas Administrative Code §134.202(c)(6) states " for products and services for which CMS or the commission does not establish a relative value unit and/or a payment amount the carrier shall assign a relative value, which may be based on nationally recognized published relative value studies, published commission medical dispute decisions, and values assigned for services involving similar work and resource commitments."

CPT code 98943 does not have a relative value unit assigned; therefore, reimbursement shall be provided in accordance with 28 Texas Administrative Code §134.1.

28 Texas Administrative Code §134.1, requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission."

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

28 Texas Administrative Code §133.307(g)(3)(D), requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for CPT code 98943 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended.

7. According to the explanation of benefits, the respondent denied reimbursement for CPT code 95851 based upon reason code "R79." On August 16, 2004, the requestor billed the respondent for CPT codes 99213, 97750-MT and 95851. In accordance with 28 Texas Administrative Code §134.202(b), the Division referred to NCCI edits and found that CPT code 95851 and 99213 may not be billed together; therefore, the respondent's denial based upon "R79" is supported. No reimbursement is recommended.
8. The respondent denied reimbursement for the medical conference coded 99361 based upon reason code "R38." On the disputed date of service, the requestor billed CPT code 99361, 99212 and 99080-73. Per NCCI edits, a billing conflict does not exist; therefore, the respondent's denial based upon "R38" is not supported.

CPT code 98943 does not have a relative value unit assigned; therefore, reimbursement shall be provided in accordance with 28 Texas Administrative Code §134.1. 28 Texas Administrative Code §133.307(g)(3)(D), requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for CPT code 99361 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$666.81.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$666.81 plus applicable accrued interest per 28 Texas Administrative Code §134.803, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	02/28/2014 Date
-----------	--	--------------------

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.